MUNICIPAL CORPORATIONS—DEFECT IN STREETS—LIABILITY ARISING FROM RUNAWAY ACCIDENTS.—As the plaintiff was driving on a street in the defendant city, his horse became frightened and ran away, without the fault of either plaintiff or defendant. A crosswalk had been built across the street and from four to seven inches above its level, but in the center of the st eet, and for about one-third of its width, gravel had been dumped on both sides of the walk to enable teams to pass over. Two wheels of plaintiff's carriage struck this walk where there was no gravel, and he was thrown out and injured. The negligence of the municipality having been fixed by the verdict in the trial court, it was *Held*, that the plaintiff could recover. *Meisner* v. *City of Dillon* (1903), — Mont. —, 74 Pac. Rep. 130.

The question involved in this case has given rise to two opposing lines of decisions. The weight of authority, represented by the states of New York, Pennsylvania, Georgia, Maryland, Missouri, Indiana, Connecticut, New Hampshire, Vermont, Texas, and now by Montana, holds that the city is liable where a horse takes fright, without any negligence on the part of the driver, at some object for which the municipality is not responsible, gets beyond the control of the driver and comes in contact with some object or defect in the road or street which the city has been negligent in not removing or repairing, if the injuries would not have been sustained but for the obstruction or defect. ELLIOTT ON ROADS AND STREETS, 615; BEACH ON CONTRIBUTORY NEGLIGENCE, 245; *Hunt* v. *Pownall*, 9 Vt. 411; *Winship* v. *Enfield*, 42 N. H. 197; *Ring* v. *Cohoes*, 77 N. Y. 83; *Railroad* v. *Prescott*, 59 Fed. Rep. 237, 23 L. R. A. 654; and many other cases cited in the notes of above text-books The other view is upheld by Massachusetts, Maine, Wisconsin, West Virginia, and probably one or two others, leading cases being *Moulton* v. *Sandford*, 51 Me. 127; *Titus* v. *Inhabitants of Northbridge*, 97 Mass. 258, None of the cases goes so far, however, as to hold that a city is bound to keep its streets in a safe condition for runaways, but is only required to keep them in a safe condition for ordinary travel. *Ring* v. *Cohoes*, *supra; Perkins* v. *Fayette*, 68 Me. 152; *Street* v. *Holyoke*, 105 Mass. 82. But accidents which are likely to happen without the negligence of the driver must be provided against. *Hunt* v. *Pownall*, *supra*. Aud in all of the states, where the horse merely shies, or is only momentarily out of the control of the driver, the municipality is liable if injury results from some obstacle or defect in the streets attributable to the negligence of the municipality. *Houfe* v. *Inhab. of Fulton*, 29 Wis. 296, 9 Am. Rep. 568; *Titus* v. *Inhab. of Northbridge*, *supra*.

MUNICIPAL CORPORATIONS—LIABILITY FOR ACTS OF OFFICERS—PROSECUTION UNDER VOID ORDINANCE.—Defendant passed a municipal ordinance prohibiting the riding of bicyles on its streets unless a license were procured and a tax of $1.00 a year paid for such license. The proceeds of the tax were paid into the city treasury for the use of the municipality. Plaintiff was arrested and convicted of violating this ordinance, but on appeal, the ordinance was declared to be void. He now sues the municipality for damages. *Held*, that the action would not lie. *Simpson* v. *City of Whatcom* (1903), —Wash—, 74 Pac. Rep. 577.

This case follows the decided weight of authority and is of interest chiefly from the fact that the court refused to follow the lead of the Supreme Court of Kentucky in *McGraw* v. *City of Marion*, 98 Ky. 673, 47 L. R. A. 593, in departing from the rule that a municipality is not liable for the acts of its police officers even when acting under a void ordinance. In that case the